

Internal Revenue Service

Department of the Treasury

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CERTIFIED MAIL

Date:

DEC 15 1994

Employer Identification Number:

Form Number:

Tax Years:

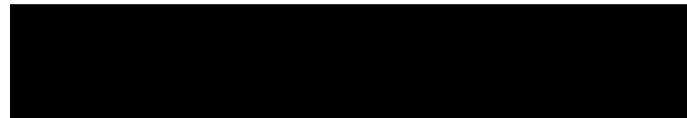
and Thereafter

Key District:

Baltimore, Maryland

Person to Contact:

Contact Telephone Number:



— Dear Sir/Madam:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

You are not organized and operated for any tax-exempt purpose set forth in I.R.C. §501(c)(3). Your articles of incorporation do not limit your purpose to one or more purposes defined in I.R.C. §501(c)(3). Further, you are an "action" organization, as defined under Income Tax Regulations §1.501(c)(3)-1(c)(3)(ii), because you are engaged in activities intended to influence legislation.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

INTERNAL REVENUE SERVICE

Philadelphia Appeals Office
701 Market Street - Suite 2200
Philadelphia, PA 19106

(over)

Letter 1371(RO) (1-8C)

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

JUL 7 1993

CERTIFIED MAIL

• Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that you were incorporated under the laws of "to promote and protect the rights of manufactured home owners and to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Non-profit Corporation Law." On , you filed amended articles of incorporation to legally change your name to

Your articles of incorporation further provide that "The corporation is not organized for profit but is operated exclusively for the promotion of social welfare of manufactured home owners in . No part of the net earnings of the corporation shall inure to the benefit of any individual and no director, officer, or employee of the corporation shall receive any pecuniary benefits of any kind except reasonable compensation for services in effecting the corporate purposes. The net earnings of the corporation are devoted exclusively to such purposes as defined by paragraph 501(c)(4) of the Internal Revenue Code (or corresponding section of any future Internal Revenue Law of the United States)".

Your Articles further provide that "the corporation's assets shall be distributed to another organization which is exempt under section 501(c)(4) of the Internal Revenue Code."

Membership in your organization, as stated in your by-laws, provide that members shall have the following qualifications: "They are [redacted] residents who have an ownership interest in a mobile, manufactured or modular home and who reside therein during all or part of each year, or to persons who are genuinely interested in the concept of the organization".

Your activities include operating a clearinghouse for information to help direct the manufactured homeowner to the proper agency for help with specific problems, educating the manufactured homeowner about laws that protect them, holding seminars and workshops and producing a newsletter which outlines your programs.

On Page 4 of the Form 1023 which you filed with the Service, you indicate that your organization also sponsors discounts for vision care and prescription drugs by mail, provides car rental discounts for members and accessibility to a short term health insurance plan. You also indicate that you expect to provide a homeowner's insurance policy for members.

In addition to these activities, you also indicate that approximately [redacted] % of your organization's time and funds will go toward influencing legislation to help relieve abuses imposed on the homeowners.

Income to your organization comes primarily from dues. Expenses have been shown for building and occupancy, travel, telephone, dinners, and miscellaneous items.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations specifies that an organization is organized for one or more exempt purposes if its Articles of Incorporation limit the purpose of such organization to exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(3) of the Income Tax Regulations provides that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Subdivision (ii) states that an organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. An organization will be regarded as attempting to influence legislation if it:

- (a) Contacts, or urges the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- (b) Advocates the adoption or rejection of legislation.

Subdivision (iii) states that an organization is an "action" organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. Activities which constitute participation or intervention in a political campaign include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Under subdivision (iv), an organization is an "action" organization if it has the following two characteristics: (a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. All the relevant facts and circumstances will be considered in determining whether an organization has such characteristics.

Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders or the organization or persons controlled, directly or indirectly, by such private interests.

Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purpose if more than an insubstantial part of its activities serve a private interest.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. The term includes: relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice or discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

In *Better Business Bureau v. United States*, 326 U.S. 279-283, (1945), the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes. To qualify for exemption under section 501(c)(3), the applicant organization must show (1) that it is organized and operated exclusively for religious, or charitable purposes, (2) that no part of the net earnings inures to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consists of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. See *Kenner v. Commissioner*, 318 F. 2d. 632, (7th Cir. 1963).

Our review of the application submitted indicates that your articles of incorporation do not meet the organizational test required for exemption under this section since this document does not limit your purposes exclusively to one or more purposes described in section 501(c)(3). This document also does not provide for the distribution of your assets to qualified 501(c)(3) organizations in the event you dissolve.

You also are not operated exclusively for charitable, educational, or other purposes described in this section. Your activities, as described in your application, do not demonstrate that you are engaged in activities that are exclusively educational or charitable as required by section 501(c)(3). Your activities are designed to help owners of manufactured and modular homes rather than the public at large which is a requirement to be exempt under this section. Also, owners of manufactured and modular homes do not constitute a charitable class of individuals such as low income individuals and families, or disabled individuals which is a requirement for an organization to be exempt under this section. Your activities as described serve the private interests of your members rather than broad public interests and your net earnings also inure to the benefit of private individuals.

Your discount vision care and prescriptions programs indicate that you are not operated exclusively for charitable purposes. The fact that you expect to spend █% of your time and money to influence legislation to help relieve abuses imposed on homeowners indicates that you are an "action" organization within the meaning of section 1.501(c)(3)-1(c) of the Income Tax Regulations and are not operated exclusively for one or more purposes described in this section.

Therefore, we have concluded that you do not qualify for a exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone phone number are shown in the heading of this letter.

Sincerely,

[REDACTED]

[REDACTED]

Acting District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]